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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 3659 of 2004
Date of decision: 6.9.2007

M/s S. R. Rice Mills **.....Appellant**

Versus

Haryana State Electricity Board **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sudhir Aggarwal, Advocate for the appellant.

Mr. Dinesh Kumar Jangra, Advocate for the respondent.

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RAJESH BINDAL, J.

This is a Regular Second Appeal against the concurrent findings of fact by both the Courts below whereby the suit for declaration with consequential relief of permanent injunction filed by the appellant-plaintiff was dismissed.

The claim made by the appellant-plaintiff in the suit was that demand of Rs. 4,27,969/- raised by the respondent on account of consumption of electricity was illegal, arbitrary and violative of provisions of Section 26 (6) of the Indian Electricity Act, 1910 (for short 'the Act"). However, both the Courts below found that Section 26 (6) of the Act was not applicable as the meter was not found to be defective. As far as raising of supplementary bill by the respondent is concerned, it was held that the same was for the reason that at the appropriate time, correct bill could not be raised because of calculation error.

Heard learned counsel for the parties and with their assistance perused the paper-book.

Learned counsel for the appellant-plaintiff submitted that appellant had been paying whatever bills were raised against the consumption of electricity, however, all of sudden in November, 1996, he was served with a demand notice for a sum of Rs. 4,27,969/- with the

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allegations that the same was a difference of calculation error made on account of slow recording of meter reading. The bill was pertaining to period from October, 1994 to October, 1996. He submitted that since it was a demand raised on account of defective meter, which did not record the correct consumption of energy according to the respondent, in terms of Section 26 (6) of the Act, no demand for the period more than six months, preceding the date of demand, could be raised. As far as error of calculation on account of multiplication of ten, which is sought to be applied for calculation of consumption by the respondent is concerned, it was submitted that appellant had produced evidence of A class Electrical Contractor stating that there was no multiplier factor in the meter installed in the premises of the appellant, which was the claim made by the respondent for raising additional bill against the appellant. Accordingly, the demand raised by the respondent was clearly arbitrary and deserves to be set aside.

On the other hand, learned counsel for the respondent submitted that meter installed at the premises of the appellant was a CT (Current Transformer) meter in which energy is recorded at the reduced current corresponding to the multiplying factor of the meter and the load. The consumption shown in the meter is ultimately multiplied by the factor as per calibration of the meter. He submitted that when the meter was installed at the premises of the appellant, report Ex. D1 was prepared by M & P Division of the respondent on October 7, 1994, which has been duly proved on record. As per the report, it is clearly evident that multiplication factor of ten was to be applied while raising the bill and the said report was duly signed on behalf of the appellant by his sole proprietor Sh. Vikas Pal as a token of its correctness. Even after issuance of notice also, staff of the M & P Division again checked the meter on December 18, 1996 in the presence of Sat Pal father of the proprietor of the appellant firm, who again admitted that multiplication factor of ten was to be applied for raising the bill after recording the consumption in the meter. However, the same could not be exhibited inadvertently though was placed on record. He further submitted that it is not the case of defect in meter. Accordingly, the restriction of six months for raising the demand is not applicable.

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Having heard learned counsel for the parties, I find merit in the contentions raised by the learned counsel for the respondent. Merely calculation error at the time of raising a bill on account of non application of multiplication factor for calculating the correct consumption in terms of the reading in the meter cannot possibly be held to be a case of defective meter. It is not in dispute that meter was giving correct reading. It was only at the time of raising the bill that multiplication factor, which was to be applied for multiplying the reading recorded from the meter, that error was committed. Once, it is found that it was a merely calculation error, the defence of Section 26 (6) of the Act would not be available to the appellant. As far as the application of multiplication factor of ten is concerned, it has come on record vide Ex. D1 report prepared at the time of installation of the meter at the premises of the appellant, which was duly signed by the proprietor of the appellant firm accepting that multiplication factor to be applied for calculation of correct energy.

With these facts duly proved on record, I do not find any error was committed by the respondent in raising the supplementary bill against the appellant on account of calculation error made while raising earlier bills.

Accordingly, I do not find any merit in the present appeal and the same is dismissed.

September 06, 2007 **(Rajesh Bindal)**
Pka **Judge**